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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-765

11 **RINA ZAVELSKY**
12 **12206 Hunter's Glen Ct.**
13 **Glen Allen, VA 23059**
14 **Registered Nurse License No. 583604**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about June 27, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official
18 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Accusation No. 2012-765 against Rina Zavelsky "(Respondent)" before
20 the Board of Registered Nursing.

21 2. On or about July 18, 2001, the Board of Registered Nursing ("Board") issued
22 Registered Nurse License No. 583604 to Respondent. The Registered Nurse License expired on
23 January 31, 2005, and has not been renewed

24 3. On or about June 27, 2012, Respondent was served by Certified and First Class Mail
25 copies of the Accusation No. 2012-765, Statement to Respondent, Notice of Defense, Request for
26 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
27 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
28

1 section 1409.1, is required to be reported and maintained with the Board. Respondent's address
2 of record with the Board was and is:

3 **12206 Hunter's Glen Ct.**
4 **Glen Allen, VA 23059.**

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

7 5. On or about July 12, 2012, the signed certified mail receipt was returned by US Postal
8 Service indicating a delivery date of July 2, 2012.

9 6. Government Code section 11506 states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent
11 files a notice of defense, and the notice shall be deemed a specific denial of all parts
12 of the accusation not expressly admitted. Failure to file a notice of defense shall
13 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
14 may nevertheless grant a hearing.

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
17 765.

18 8. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions
21 or upon other evidence and affidavits may be used as evidence without any notice to
22 respondent.

23 9. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 2012-765, finds
28 that the charges and allegations in Accusation No. 2012-765, are separately and severally, found
to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$527.50 as of July 23, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Rina Zavelisky has subjected her Registered Nurse License No. 583604 to discipline.

2. Pursuant to Business and Professions Code section 118, 2764, and 2811, subdivision (b), in conjunction with California Code of Regulations title 16, section 1419.3, the Board has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.

4. **Conviction of Substantially-Related Crimes.** Respondent is subject to disciplinary action under section 2761, subdivision (f) and section 490 of the Code, as defined in California Code of Regulations, title 16, section 1444, subdivision (c), in that Respondent was convicted of a crime substantially related to the qualification, functions, and duties of a registered nurse as follows:

a. On or about October 24, 2008, in the criminal matter entitled *United States of America v. Rina Zavelsky* (United States District Court, Eastern District of Virginia, 2008, No. 3:08CR00074-002), Respondent was convicted of one felony count of violating United States Code, Title 18, Section 1349 in conjunction with sections 982(a)(7) and 982 (a)(1), conspiracy to commit health care fraud. Respondent was sentenced to serve eight months in prison and pay restitution in the amount of six million nine hundred thousand dollars.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 583604, heretofore issued to Respondent Rina Zavelsky, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 11, 2013.

It is so ORDERED December 12, 2012


FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51138056.DOC
DOJ Matter ID:LA2012506999

Exhibit A

Accusation Case No. 2012-765

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2012-765**

11 **RINA ZAVELSKY**
12 **12206 Hunter's Glen Ct.**
13 **Glen Allen, VA 23059**

A C C U S A T I O N

14 **Registered Nurse License No. 583604**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about July 18, 2001, the Board of Registered Nursing issued Registered Nurse
22 License Number 583604 to Rina Zavelsky ("Respondent"). The Registered Nurse License
23 expired on January 31, 2005, and has not been renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code ("Code") unless otherwise indicated.
28

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 490 provides:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

“(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

“(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

7. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article

1 3 (commencing with section 2750) of the Nursing Practice Act.

2 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
3 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
4 licensee or to render a decision imposing discipline on the license.

5 9. Section 2761 of the Code provides, in pertinent part:

6 "The board may take disciplinary action against a certified or licensed nurse or deny an
7 application for a certificate or license for any of the following:

8
9 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
10 functions, and duties of a registered nurse, in which event the record of the conviction shall be
11 conclusive evidence thereof."

12 10. Section 2811, subdivision (b) of the Code provides:

13 "Each such license not renewed in accordance with this section shall expire
14 but may within a period of eight years thereafter be reinstated upon payment of the
15 biennial renewal fee and penalty fee required by this chapter and upon submission
16 of such proof of the applicant's qualifications as may be required by the board,
17 except that during such eight-year period no examination shall be required as a
18 condition for the reinstatement of any such expired license which has lapsed solely
19 by reason of nonpayment of the renewal fee. After the expiration of such eight-
20 year period the board may require as a condition of reinstatement that the applicant
21 pass such examination as it deems necessary to determine his present fitness to
22 resume the practice of professional nursing."

23 REGULATORY PROVISIONS

24 11. California Code of Regulations, title 16, section 1444, provides:

25 "A conviction or act shall be considered to be substantially related to the qualifications,
26 functions or duties of a registered nurse if to a substantial degree it evidences the present or
27 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
28 safety, or welfare.

Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
subdivision (d) of Penal Code Section 11160.

- 1 (b) Failure to comply with any mandatory reporting requirements.
2 (c) Theft, dishonesty, fraud, or deceit.
3 (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
4 Penal Code."

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6 **COST RECOVERY**

7 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licensee found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of Substantially-Related Crimes)**

13 13. Respondent is subject to disciplinary action under section 2761, subdivision (f) and
14 section 490 of the Code, as defined in California Code of Regulations, title 16, section 1444,
15 subdivision (c), in that Respondent was convicted of a crime substantially related to the
16 qualification, functions, and duties of a registered nurse as follows:

17 14. On or about October 24, 2008, in the criminal matter entitled *United States of*
18 *America v. Rina Zavelsky* (United States District Court, Eastern District of Virginia, 2008, No.
19 3:08CR00074-002), Respondent was convicted of one felony count of violating United States
20 Code, Title 18, Section 1349 in conjunction with sections 982(a)(7) and 982 (a)(1), conspiracy to
21 commit health care fraud. Respondent was sentenced to serve eight months in prison and pay
22 restitution in the amount of six million nine hundred thousand dollars.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

- 26 1. Revoking or suspending Registered Nurse License Number 583604, issued to Rina
27 Zavelsky;
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1 2. Ordering Rina Zavelsky to pay the Board of Registered Nursing the reasonable costs
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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7
8 DATED:

June 27, 2012

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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